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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/527,986 | 03/17/2000 | Robert Giannini | JARB.005PA | 4342 |

7590 03/21/2003
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EXAMINER

GART, MATTHEW S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3625

DATE MAILED: 03/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/527,986

Applicant(s)

GIANNINI, ROBERT

Examiner

Matthew s Gart

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. Figures 1 and 2 contain rough lines and text, which may affect clarity when reproduced.

Applicant is required to submit a formal correction of the noted defect.

Applicant is required to submit drawing corrections promptly. Drawing objections may no longer be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-10 are rejected under 35 U.S.C. 103(a) as being anticipated by
Rose U.S. Patent No. 5,930,769, in view of Official Notice, in further view of Dodd
U.S. Patent No. 6,321,211.**

Referring to claims 1, 4, 5, 6, 9, and 10. Rose discloses a method and an arrangement for on-line viewing of an article on another structure (at least Abstract), comprising:

- Providing a host-site accessible to an on-line viewer and web-linkable to at least one article-provider site (at least column 1, lines 53-64), the article

Art Unit: 3625

provider-site having images of articles for view via the web (at least Fig. 3 and Fig. 4);

- Linking the on-line viewer to the host-site and selecting a structure in response to a command received by the on-line viewer (at least Fig. 3 and Fig. 4);
- Using the host-site, linking the viewer to the at least one article-provider site and passing images from that site for view by the on-line viewer (at least Fig. 3 and Fig. 4);
- A memory containing a new image of a merged item composed of merged representations of the different ones of the articles and the structure (at least column 3, lines 18-62);
- Electronically storing partial-data sets respectively corresponding to different ones of the articles (at least column 2, line 63 to column 3, line 62); and
- Generating a new image by merging representations of the different ones of the articles with the structure by forming an image of a merged item including representations of both the structure and the selected article (at least column 2, lines 3-9).

Rose does not expressly disclose a method and an arrangement for on-line viewing of an article on another structure, comprising:

- Communicating the item electronically to another site for a selection, which causes a billing to another site; and
- Electronically gifting the merged item to another site (at least abstract).

Dodd discloses a method and an arrangement for on-line viewing of an article on another structure (at least Abstract), comprising:

- Communicating the item electronically to another site for a selection, which causes a billing to another site (at least column 3, lines 28-50 and column 9, lines 49-67); and
- Electronically gifting the merged item to another site (at least abstract).

Examiner takes official notice the fact that a virtual storage closet is known in the bearing art to be equivalent to a memory storage device for use in electronic commerce system. To substitute a virtual storage closet with a memory storage device would have been an obvious functional equivalent. Rose discloses the use of storing personal information in a memory storage device, which is entered into a computer system, which includes body measurements along with credit information, address, and other pertinent facts. The personal information is a permanent record in the database of the electronic fashion shopping system and redundant input is not needed the next time the customer accesses the system (at least column 3, lines 18-39). This is equivalent to the immediate application's description of an electronic closet, which is used to retrieve an article for matching to other articles in terms of structure and size.

Accordingly, it would have been obvious to one of ordinary skill in the art to have modified the system of Rose to have included the limitations of Dodd together with the virtual storage closet (official notice) substitute in view of its closely related configuration and resulting functionality expectation in order to facilitate a means of electronic fashion shopping and manual shopping as a marketing and sales tool for

Art Unit: 3625

retailers and manufacturers to provide enhanced services and easy shopping for customers while increasing efficiency (Rose: at least column 1, line 65 to column 2, line 2). Moreover, to have modified the method of Rose to have included the step of Dodd together with the virtual storage closet substitute would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already disclosed by Rose. Such modification would not have otherwise affected the method of Rose and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Rose.

The attorney argues that Rose does not provide, "electronically closeting partial-data sets respectively corresponding to different ones of the articles." The Examiner notes that each clothes item references portions of a database of fashions for each fashion category. As FIG. 3 illustrates, a submenu allows selection of a fashion for each category. For example, if the customer selected day suits, then the first entry of the database of fashions for day suits in a fashion category such as petites would be shown. The system may also provide an adaptive presentation of choices based on a determined prioritization. Each database entry or fashion has corresponding fashion data. Fashion data allows presentation of a projection of a model having the customer's body type wearing the selected fashion, portrayed on the computer screen. Other fashion data include the available colors of the fashion **28**, the manufacturer **30**, price of the fashion **32**, the description **34**, and sizes available **36**. If accessories are included, the style number, description, and cost of the accessory are included as fashion data.

Art Unit: 3625

The submenu allows the customer to select the size and fit information menu **38**, see another garment in the database for the selected clothes item **40**, order **42**, or start again **44**, by selecting an indicator.

Furthermore in response to the Attorney's arguments that Rose does not provide, "electronically closeting partial-data sets respectively corresponding to different ones of the articles," it is noted that the features upon which applicant relies are not commensurate with the scope of the claim(s). These claims were given the broadest reasonable interpretation in an effort to reduce the possibility that these claims, once issued, will be interpreted more broadly than is justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969).

Referring to claims 2 and 7. Rose in view of Dudd discloses a method and arrangement according to claims 1 and 6 as indicated. Rose further discloses a method wherein the partial data sets include a size code (at least column 3, line 18 to column 4, line 44).

Referring to claim 3. Rose in view of Dudd discloses a method and arrangement according to claim 1. Rose further discloses a method wherein the partial data sets include a code identifying a style (at least column 6, line 65 to column 7, line 23).

Referring to claim 8. Rose in view of Dudd discloses an arrangement according to claim 6 as indicated supra. Rose in view of Dudd does not expressly disclose an arrangement configured and arranged to limit a maximum amount of storage space in the memory storage device provided for the on-line viewer. Examiner takes official notice that a memory storage device having a maximum limit to accessible storage

Art Unit: 3625

space is an inherent component of a memory storage device, and does not substantially distinguish the claimed invention. Accordingly, it would have been obvious to one of ordinary skill in the art to have modified the system of Rose and Dodd to have includes a maximum limit in order to enhance services and easy shopping for customers while increasing efficiency (Rose: at least column 1, line 65 to column 2, line 2).

Response to Arguments

The attorney argues that Rose does not provide, "electronically closeting partial-data sets respectively corresponding to different ones of the articles." The Examiner notes that each clothes item references portions of a database of fashions for each fashion category. As FIG. 3 illustrates, a submenu allows selection of a fashion for each category. For example, if the customer selected day suits, then the first entry of the database of fashions for day suits in a fashion category such as petites would be shown. The system may also provide an adaptive presentation of choices based on a determined prioritization. Each database entry or fashion has corresponding fashion data. Fashion data allows presentation of a projection of a model having the customer's body type wearing the selected fashion, portrayed on the computer screen. Other fashion data include the available colors of the fashion **28**, the manufacturer **30**, price of the fashion **32**, the description **34**, and sizes available **36**. If accessories are included, the style number, description, and cost of the accessory are included as fashion data. The submenu allows the customer to select the size and fit information menu **38**, see another garment in the database for the selected clothes item **40**, order **42**, or start again **44**, by selecting an indicator.

Art Unit: 3625

Furthermore in response to the Attorney's arguments that Rose does not provide, "electronically closeting partial-data sets respectively corresponding to different ones of the articles," it is noted that the features upon which applicant relies are not commensurate with the scope of the claim(s). These claims were given the broadest reasonable interpretation in an effort to reduce the possibility that these claims, once issued, will be interpreted more broadly than is justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, it would have been obvious to one of ordinary skill in the art to have modified the system of Rose to have included the limitations of Dodd together with the virtual storage closet (official notice) substitute in view of its closely related configuration and resulting functionality expectation in order to facilitate a means of electronic fashion shopping and manual shopping as a marketing and sales tool for retailers and manufacturers to provide enhanced services and easy shopping for customers while increasing efficiency (Rose: at least column 1, line 65 to column 2, line 2). Moreover, to have modified the method of Rose to have included the step of Dodd together with the

Art Unit: 3625

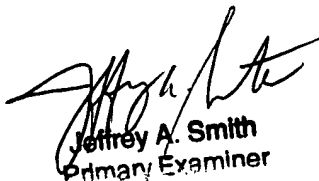
virtual storage closet substitute would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already disclosed by Rose. Such modification would not have otherwise affected the method of Rose and would have merely represented one of numerous steps that the skilled artisan would have found obvious for the purposes already disclosed by Rose.

Conclusion

Any inquiry concerning this communication should be directed to Matthew Gart whose telephone number is 703-305-5355. This examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Jeffrey A. Smith
Primary Examiner

MSG

March 17, 2003